



WEB COPY



W.A. No.2689 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 03.09.2024

DELIVERED ON:04.10.2024

CORAM:

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
and**

THE HON'BLE MR.JUSTICE P.B.BALAJI

**W.A.No.2689 of 2024
and CMP. No.19468 of 2024**

N.Subramaniyan

.. Appellant/Petitioner

Vs

- 1.The District Revenue Officer,
Office of District Revenue,
Tiruppur District.
- 2.The Revenue Court Special Deputy Collector,
Revenue Court, Thiruchirapalli.
- 3.The Revenue Tahsildar cum
Tenancy Registration Authority,
Palladam.
- 4.P.M.Mennatchi Sundharam.
- 5.N.M.Thangavel



W.A. No.2689 of 2024

6.R.Preetham

..Respondents

WEB COPY

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order passed in W.P. No.15694 of 2023 dated 27.06.2024 by allowing the present Writ Appeal.

For Appellant : Mr.T.Gouthaman,
Senior Counsel for
Mr.M.Guruprasad

For Respondents : Mr.K.Muthganesha Pandian for R5

J U D G M E N T

(Judgment of the Court was made by MR.JUSTICE P.B.BALAJI, J.)

The unsuccessful writ petitioner in W.P. No.15694 of 2023 has preferred the above Writ Appeal.

2. The petitioner filed W.P. No.15694 of 2023, seeking to quash the order of the first respondent in Ni Mu.27613/2022/J1/dated 21.04.2023 and consequential order of the third respondent in Na.Ka.No.865/2020/A2 dated 12.05.2023.



W.A. No.2689 of 2024

3. We have heard Mr.T.Gouthaman, learned Senior Counsel for Mr.M.Guruprasad, learned counsel for the Appellant and Mr.K.Muthganesha Pandian, learned counsel for the 5th respondent.

4. With the consent of the learned counsel on either side, Writ Appeal itself was taken up for final disposal at the admission stage.

5. The learned Senior Counsel appearing for the appellant would submit that the Writ Court had erroneously dismissed the Writ Petition without noticing that the contesting respondents had admitted the fact that the appellant's father was the cultivating tenant and that the appellant along with his father was carrying on the agricultural activities, all these years.

6. The learned Senior Counsel would also state that though the contesting respondents, claimed that they had handed over the cheque for a sum of Rs.10 lakhs and also paid Rs.14 lakhs by cash, no materials were produced to establish that the cheque was encashed by the father of the appellant, viz., Late.Nachimuthu Gounder, during his lifetime. He would



W.A. No.2689 of 2024

further submit that his father was aged 96 years on the date of the alleged Release Deed dated 30.11.2020 and at that relevant point of time, the appellant's father did not even have a Bank Account and therefore, the cheque could not have been encashed at all.

7. The learned Senior Counsel would further submit that even if his father Late.Nachimuthu Gounder, had executed the alleged Release Deed, the appellant's independent and separate rights were still available as a cultivating tenant and therefore, the alleged release deed would not bind the appellant or the other legal heirs of Late.Nachimuthu Gounder.

8. He would also invite our attention to the Declaratory Suit in O.S. No.36 of 2024, filed before the learned District Munsif, Palladam, where the mother of the appellant has challenged the alleged Release Deed dated 30.11.2020. He would further submit that in such circumstances, the Writ Court ought not to have dismissed the Writ Petition on the ground that the issue was subjudice before the competent Civil Court.



W.A. No.2689 of 2024

9. Per contra, the learned counsel for the 5th respondent would rely on a typed set, dated 03.09.2024. The said typed set contains an undertaking affidavit signed by one N.Arumugam in favour of the 5th respondent. The said N.Arumugam, is the own blood brother of the appellant herein. In the said undertaking affidavit, he has stated that the rights held by his deceased father, Nachimuthu Gounder have been released in favour of the 5th respondent for a total consideration of Rs.24 lakhs, out of which a sum of Rs.14 lakhs was paid by cash on several dates and Rs.10 lakhs was paid by way of Bankers Cheque, bearing No.106820 dated 02.12.2020. A copy of the Bank cheque in favour of the appellant's father dated 02.12.2020 is also enclosed in the typed set of papers. He would therefore submit that once the cultivating rights have been released in favour of the 5th respondent, the appellant had no subsisting right to be recognised under the Tamil Nadu Cultivating Tenants Protection Act, 1955. He would therefore pray for dismissal of the Writ Appeal.

10. We have considered the rival submissions advanced by the learned counsel on either side.



W.A. No.2689 of 2024

11. The Writ Court appreciating the facts and circumstances of the case and the arguments advanced on either side found that the Writ Petition itself was not maintainable, in view of the fact that the appellant's father himself had released his rights as a cultivating tenant in favour of the 5th respondent. Admittedly, the father of the appellant was the lessee in respect of the entire subject lands and he has relinquished all his rights after receiving consideration. The Writ Court has also rightly found that though the petitioner claims a separate right as a cultivating tenant having contributing his physical labour along with his father, no material has been placed before the Writ Court to substantiate the said averments in the affidavit in support of the Writ Petition.

12. The Writ Court has also found that the notice issued by the Revisional Authority to evict the petitioner within a period of seven days cannot be given effect to, since the petitioner is not a cultivating tenant and further held that the petitioner can be evicted only by following due process of law viz., the private respondents shall file appropriate Execution Petition before the Revenue Court for eviction of the petitioner.



W.A. No.2689 of 2024

WEB COPY

13. The Writ Court has rightly appreciated the facts of this case and also found that the petitioner has no right to claim as a cultivating tenant and also directed that the petitioner to be evicted by following the due process of law. Therefore, we do not see how the Writ Petitioner is aggrieved by the said order of the Writ Court which gives ample protection to the Writ Petitioner. It is always open to the Writ Petitioner to contest the Execution Petition that may be filed by the contesting respondents before the competent Court of law. Moreover, admittedly, the release deed is said to have been challenged by the mother of appellant before a Competent Civil Court and therefore, all disputed questions of fact can only be decided by the Civil Court and not by this Court under Article 226 of the Constitution of India. Hence from this angle also, we do not find the Writ Petition to be maintainable. We therefore do not find any infirmity in the findings of the Writ Court and consequently, the Writ Appeal deserves to be dismissed.

14. In fine, the Writ Appeal is dismissed. Consequently, connected Miscellaneous Petition is also dismissed. There shall be no order as to costs.



WEB COPY



W.A. No.2689 of 2024

(D.K.K.J.,) (P.B.B.J.,)

04.10.2024

Internet: Yes/No

Index : Yes/No

Speaking Order/Non Speaking Order

rkp

To

1.The District Revenue Officer,
Office of District Revenue,
Tiruppur District.

2.The Revenue Court Special Deputy Collector,
Revenue Court, Thiruchirapalli.

3.The Revenue Tahsildar cum
Tenancy Registration Authority,
Palladam.

D. KRISHNAKUMAR. J.,

and

P.B.BALAJI, J.

rkp



WEB COPY



W.A. No.2689 of 2024

Pre-delivery Judgment in
W.A.No.2689 of 2024
and CMP. No.19468 of 2024

04.10.2024